

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 11 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Policies and Rules Concerning) CC Docket 94-129
Unauthorized Changes of Consumers')
Long Distance Carriers)

DOCKET FILE COPY ORIGINAL

DECLARATION OF WAYNE E. HUYARD

I, Wayne E. Huyard, declare as follows:

1. I am President, Mass Market Sales and Service, MCI Telecommunications Corporation (MCI). In that capacity, my responsibilities include heading MCI residential sales efforts. I am familiar with the practices used by MCI to verify an order requesting a primary interexchange carrier (PIC) change, as well as the costs associated with that undertaking.

2. I am also familiar with the Commission's current regulatory requirements in connection with the PIC selection process, and I am familiar with the potential effects on MCI of the Commission's June 14, 1995 Report and Order, Policies and Rules Concerning Unauthorized Changes and Consumers' Long Distance Carriers, CC Docket No. 94-129 (Order). I make this Declaration in support of the MCI Petition for Limited Reconsideration of certain aspects of the Order.

3. Among other things, implementation of the Order would require that the PIC verification procedures established in Section 64.1100 of the Commission's rules be extended to consumer-initiated calls to IXC business telephone numbers.

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(Previously, the PIC verification procedures applied only to calls initiated by IXCs, or "out-bound" calls.)

4. While MCI uses a number of sales methods to acquire new customers, several of its sales channels, including direct mail and broadcast advertisements, encourage customers to call MCI 800 numbers to enroll in MCI services. Such calls are directed to one of many MCI locations throughout the country. If the Order as written is implemented, MCI would have to adopt new PIC verification procedures at each of these locations.

5. Adoption of these procedures would result in significant additional costs to MCI, perhaps as much as \$10 million during the first twelve months. By category, these costs would be as follows:

a. Residential Verification:

In order to build the infrastructure needed to verify "in-bound" sales to residential customers, MCI would need to spend approximately \$1.5 million in capital expenses for equipment and other verification hardware. MCI further estimates that operational costs would add an additional \$6.3 million in the first twelve months after the Order is implemented, based on projected monthly sales and acquisition costs per sale.

b. Business Verification:

In order to build the infrastructure needed to verify "in-bound" sales to business customers, MCI would need to spend approximately \$0.9 million in capital expenses for equipment and other verification hardware. MCI further estimates that operational costs would add an additional \$1.1 million in the

first twelve months after the Order is implemented, based on projected monthly sales and acquisition costs per sale.

6. MCI would experience additional cost burdens that are not readily quantifiable. For example, significant operational problems likely would occur as a result of orders placed at MCI locations not equipped to handle verification procedures efficiently. To comply with the "in-bound" verification rule, MCI also would have to expend substantial staff and system resources, thereby creating a drain on business activities.

7. Customers also would experience a negative impact. The "in-bound" verification process would seem unnecessary or confusing to the customers and would inconvenience them by extending the length of time needed to complete the sale.

8. Based upon my knowledge of the industry, I believe that similar cost impacts would be felt by all IXCs.

9. In my current capacity, I am familiar with MCI's marketing practices. Like a number of other carriers, MCI generally establishes designated 800 numbers for limited-duration promotional campaigns, each of which usually lasts no more than a few weeks or months. As a practical matter, when prospective customers call these specially designated numbers, MCI is able to recognize that callers are responding directly to an offer of service.


10. Also, in my current capacity, I am familiar with the subscription rate of consumers who respond to promotional campaigns. The current enrollment rate is approximately 77 percent for those responding who are not MCI customers, and

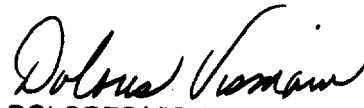
approximately 90 percent for those who are. The latter are existing MCI customers who have responded to an offer and subscribe to additional or different MCI service. While verification is not required for current MCI customers requesting a new MCI service, the fact that approximately 50 percent of those responding to broadcast advertising are already MCI customers who have at least a basic knowledge of MCI and its services is evidence that callers are telephoning to "buy" a new service or product in response to advertisements, not to merely seek and obtain "general information."

11. MCI has received minimal consumer complaints with the service ordering process described in this Declaration. Consumers are very satisfied with simple and clear procedures allowing them to place orders by calling MCI. Imposing any verification procedure on these customers would serve only to inconvenience them by, in effect, questioning a decision that they affirmatively made prior to the calls they initiated to MCI.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 11, 1995.


Wayne E. Huyard


DOLORES VISMARA
Notary Public District of Columbia
My Commission Expires: 6/14/99

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DECLARATION OF IVY E. WHITLATCH

I, Ivy E. Whitlatch, declare as follows:

1. I am Senior Manager, Markets, for MCI Telecommunications Corporation (MCI). In that capacity, my responsibilities include designing, directing and analyzing surveys for MCI in connection with MCI "branded" services. I have occupied my present position since 1992 and have been involved in the same line of work for the past 15 years. I have taken formal coursework in the preparation, administration and analysis of surveys in accordance with generally accepted social science and business techniques.

2. In order to determine the reasons consumers call to MCI business telephone numbers when responding to advertisements, I assumed responsibility for conducting a survey. A random sample involving 510 respondents who called MCI 800 numbers available through broadcast advertising (Advertising) or direct response mailing (Direct Response) between June 28 and July 14, 1995 was used. Interviewing was conducted by telephone on August 2nd and 3rd, 1995 by an independent third party hired by MCI to conduct the survey.

3. The results of the survey show that 81 percent of the sample participants responded to Direct Response and 19 percent of the sample participants responded to Advertising.

4. A total of 81 percent of all those sampled reported MCI as their current long distance carrier.

5. As to the reasons those sampled called MCI, 61 percent called to switch their service to MCI. The following break-down shows other reasons for the calls:

- Get More Information	7%
- Obtain MCI Authorization to Activate Promotional Checks	3%
- Customer Service Questions	20%
- Don't Know/No Answer	7%
- Other Reasons	2%

6. As indicated above, 81 percent surveyed either called to switch their service to MCI or were current MCI subscribers with customer service questions. As indicated above, only 7 percent of those surveyed said that they called to obtain more information.

7. I have read the Commission's June 14, 1995 Report and Order, Policies and Rules Concerning Unauthorized Changes and Consumers' Long Distance Carriers, CC Docket No. 94-129. The results of the survey contradict the Commission's conclusion therein (para. 42) that "[t]ypically, the consumers, [when they call an IXC] in response to an advertisement, are just requesting general information about the IXC and do not intend to initiate a PIC change."

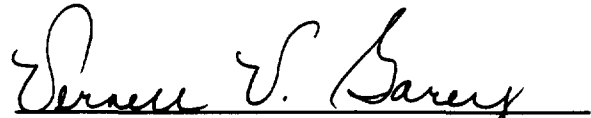
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed on August 11, 1995.

City/County of Arlington
Commonwealth/State of VIRGINIA
Sworn to and subscribed before me this 11th day
of Aug, 1995. Witness my hand and official seal.
[Signature], Notary Public
3/31/98
(Print your expiration date above)

[Signature]
Ivy E. Whitlatch

CERTIFICATE OF SERVICE

I, Vernell V. Garey, hereby certify that the foregoing "MCI COMMENTS" was served this 11th day of August, 1995 by mailing copies thereof, postage prepaid, to the following persons at the addresses listed below:


Vernell V. Garey

***HAND-DELIVERED**

Kathleen Wallman*
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Roy L. Morris
Allnet Communication Services, Inc.
Regulatory Counsel
1990 M Street, N.W., Suite 500
Washington, D.C. 20036

William Caton*
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Andrew D. Lipman
Michael C. Wu
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

International Transcription Service*
1919 M Street, N.W., Room 214
Washington, D.C. 20554

Charles H. Helein, Esq.
Julia A. Waysdorf, Esq.
Helein & Waysdorf, P.C.
1850 M Street, N.W., Suite 550
Washington, D.C. 20036

Allan Taylor
Public Service Commission
Division of Communications
101 E. Gaines Street
Tallahassee, FL 32399

Peter Arth, Jr.
Edward W. O'Neill
Ellen S. Levine
Attorneys for the People of the State of
California and the Public Utilities
Commission of the State of California
505 Van Ness Avenue
San Francisco, CA 94102

Mark C. Rosenblum
Robert J. McKee
Peter H. Jacoby
Seth S. Gross
AT&T Corp.
Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920

Michael J. Shortley, III
Frontier Corporation
180 South Clinton
Rochester, NY 14646

David J. Gudino
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

Kathy L. Shobert
Director, Federal Affairs
General Communication Inc.
901 15th Street, N.W., Suite 900
Washington, D.C. 20005

Andrew D. Lipman
Margaret M. Charles
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Rebecca L. Reed
Hertz Technologies, Inc.
Tariff Analyst
5601 Northwest Expressway
Oklahoma City, OK 73132

Andrew D. Lipman
James C. Falvey
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Randall B. Lowe
Piper and Marbury
1200 Nineteenth Street, N.W.
Washington, DC. 20036-2430

Charles C. Hunter
Hunter & Mow, P.C.
1620 I Street, N.W., Suite 701
Washington, D.C. 20006

William Malone

9117 Vendome Drive
Bethesda, MD 20817-4022

Donald J. Hanaway
Attorney General
State of Wisconsin
Department of Justice
114 East State Capital
P.O. Box 7857
Madison, WI 53707-7857

Mary E. Burgess
Assistant Counsel
State of New York Department of
Public Service
Three Empire State Plaza
Albany, NY 12223

William J. Balcerski
Edward R. Wholl
William J. Balcerski
Nynex Telephone Companies
120 Bloomingdale Road
White Plains, NY 10605

John H. Carley, Deputy Attorney General
Public Advocacy
State of New York
Department of Law
120 Broadway
New York, NY 10271

James E. Doyle, Attorney General
State of Wisconsin
Department of Justice
123 West Washington Avenue
P.O. Box 7856
Madison, WI 53707-7856

James P. Tuthill
Betsy Stover Granger
Pacific Bell/Nevada Bell

**140 New Montgomery Street, Rm. 1525
San Francisco, CA 94105**

**James L. Wurtz
Pacific Bell
Nevada Bell
140 New Montgomery Street, Rm. 1525
San Francisco, CA 94105**

**Leon M. Kestenbaum
H. Richard Juhnke
Sprint Communications Co.
1850 M Street, N.W., 11th Floor
Washington, D.C. 20036**

**Robert M. Lynch
Durward D. Dupre
J. Paul Walters, Jr.
Southwestern Bell Telephone Company
One Bell Center, Suite 3520
St. Louis, MO 63101**

**Genevieve Morelli
Vice President and General Counsel
The Competitive Telecommunications
Association
1140 Connecticut Avenue, N.W.
Suite 220
Washington, D.C. 20036**

**Cynthia B. Miller
Associate General Counsel
State of Florida
Public Service Commission
Fletcher Building
101 East Gaines Street
Tallahassee, FL 32399-0850**

**Catherine R. Sloan, Esq.
Vice President, Federal Affairs
LDDS Communications, Inc.
1825 Eye Street, N.W., Suite 400
Washington, D.C. 20006**

**T. A. Sonneborn
Assistant Attorney General
Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909**

**David J. Giles
Assistant Attorney General
State of Wisconsin
Department of Justice
123 West Washington Avenue
P.O. Box 7856
Madison, WI 53707-7856**

**Kirk Smith
Operator Service Company
1624 Tenth Street
Lubbock, TX 79401-2607**

**Nanci Adler
Technologies Management, Inc.
P.O. Drawer 200
Winter Park, FL 32790-0200**

**William Terry Miller
President
Telecommunications Company of the
Americas, Inc.
901 Rosenberg
Galveston, TX 77550**

**Rowland L. Curry, P.E.
Director
Telephone Utility Analysis
Public Utility Commission of Texas
7800 Shoal Creek Boulevard
Austin, TX 78757**

Suellen Lambert Young
Alabama Public Service Commission
P.O. Box 991
Montgomery, AL 36101-0991

Larry A. Peck
Michael J. Karson
Ameritech
2000 W. Ameritech Center Dr.
Hoffman Estates, IL 60196-1025

Grant Wood
Attorney General
State of Arizona
1275 West Washington
Phoenix, AZ 85007

Winston Bryant
Attorney General
State of Arkansas
200 Tower Building
323 Center Street
Little Rock, AR 72201-2610

Daniel E. Lungren
Robert H. Griffen
Edward D. Young, III
Michael E. Glover
Bell Atlantic Telephone Companies
Eighth Floor
1320 North Court House Road
Arlington, VA 22201

M. Robert Sutherland
Richard M. Sbaratta
Helen A. Shockey
BellSouth Telecommunications, Inc.
4300 Southern Bell Center
675 West Peachtree St., N.E.
Atlanta, GA 30375

Attorney General

State of California
1515 K Street, Suite 511
P.O. Box 944255
Sacramento, CA 94244-2550

Phyllis A. Whitten
Michael C. Wu
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007
Attorneys for Commonwealth Long Distance

Andrew D. Lipman
William B. Wilhelm, Jr.
Swidler & Berlin, Chtd.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Attorneys for Communications
Telesystems International

Danny E. Adams
Steven A. Augustino
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for The Competitive
Telecommunications Assn.

Richard Blumenthal
Attorney General
State of Connecticut
55 Elm Street, 7th Floor
Hartford, CT 06106

Ken McEldowney
Consumer Action
116 New Montgomery
San Francisco, CA 94105

Andrew D. Lipman
William B. Wilhelm, Jr.
Swidler & Berlin
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

**Attorneys for Custom Telecommunications
Network of Arizona, Inc.**

**Robert A. Butterworth
General Attorney
State of Florida
The Capitol
Tallahassee, FL 32399-1050**

**David J. Gudimo
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036**

**Andrew D. Lipman
William B. Wilhelm, Jr.
Swidler & Berlin, Chtd.
3000 K Street N.W., Suite 300
Washington, D.C. 20007
Attorneys for Hi-Rim Communications, Inc.**

**James E. Ryan
Attorney General
State of Illinois
500 S. Second Street
Springfield, IL 62706**

**Pamela Carter
Attorney General
State of Indiana
219 State House
Indianapolis, IN 46204**

**Thomas J. Miller
Attorney General
State of Iowa
Hoover Building, 2nd Floor
Des Moines, IA 50319**

**Carla J. Stovall
Attorney General
State of Kansas
Kansas Judicial Center, 2nd Floor
Topeka, KS 66612-1597**

**Stuart N. Dolgin
17 Battery Place, Suite 1200
New York, NY 10004
Attorney for Local Area
Telecommunications, Inc.**

**J. Joseph Curran, Jr.
Attorney General
State of Maryland
200 St. Paul Place
Baltimore, MD 21202-2021**

**Scott Harshbarger
Attorney General
Commonwealth of Massachusetts
One Ashburton Place, Room 2010
Boston, MA 02108**

**Mark C. Rosenblum
Peter H. Jacoby
AT&T
Room 3245H1
295 North Maple Avenue
Basking Ridge, NJ 07920**

**Hubert H. Humphrey, III
Attorney General
State of Minnesota
102 State Capitol
St. Paul, MN 55155**

**Douglas M. Ommen
Office of the Attorney General
Supreme Court Building
P.O. Box 899
Jefferson City, MO 65102**

Allan G. Mueller
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Martha S. Hogerty
Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Ernest D. Preate, Jr.
James E. Doyle
Co-Chairpersons
Telecommunications Subcommittee
Consumer Protection Committee
National Association of Attorneys General
Hall of States
444 Capitol Street
Washington, D.C. 20006

Paul Rodgers
Charles D. Gray
James Bradford Ramsay
National Association of
Regulatory Utility Commissioners
1102 ICC Building
Post Office Box 684
Washington, D.C. 20044

Frankie Sue Del Papa
Attorney General
State of Nevada
Capitol Complex
Carson City, NV 89710

William J. Cowan
Mary E. Burgess
New York State Dept. of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Edward R. Wholl
William J. Balcerski

NYNEX Telephone Companies
120 Bloomingdale Road
White Plains, NY 10605

Betty Montgomery
Attorney General
State of Ohio
30 East Broad Street, 17th Floor
Columbus, OH 43266-0410

Gregory M. Casey
Regulatory and Telco Relations
Oncor Communications, Inc.
6707 Democracy Blvd.
Bethesda, MD 20817

Brad E. Mutschelknaus
Steven A. Augustino
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for Oncor Communications, Inc.

Maureen A. Scott
Veronica A. Smith
John F. Povilaitis
The Pennsylvania Public Utility Commission
P.O. Box 1365
Harrisburg, PA 17021-1365

Jeffrey B. Pine
Attorney General
State of Rhode Island
72 Pine Street
Providence, RI 02903-2856

Wm. Terry Miller
Telecommunications Company of the
Americas, Inc.

**901 Rosenberg
Galveston, TX 77550**

**Charles W. Burson
Attorney General
State of Tennessee
500 Charlotte Avenue
Nashville, TN 37243-0497**

**Jeffrey Amestoy
Attorney General
State of Vermont
109 State Street
Montpelier, VT 05609-1001**

**Darrell V. McGraw, Jr.
Attorney General
State of West Virginia
Room 26, East Wing
State Capitol
Charleston, WV 25305-0220**

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COMMENTS

MCI Telecommunications Corporation (MCI) hereby offers its comments in support of the "AT&T Motion for Stay" filed herein on August 4, 1995. Therein, AT&T demonstrates that the public interest would be served if the Commission's decision to extend the primary interexchange carrier (PIC) verification requirements of Section 64.1100 of the Commission's Rules and Regulations, 47 C.F.R. § 64.1100, to consumer-initiated calls to interexchange carriers (IXCs)¹ were to be stayed, pending reconsideration of that aspect of the Commission's decision. For the reasons cited in AT&T's stay request and in MCI's own request for reconsideration, filed simultaneously herewith, MCI fully supports AT&T's request.²

¹ Policies and Rules Concerning Unauthorized Changes and Consumers' Long Distance Carriers, CC Docket No. 94-129, Report and Order, FCC 95-225, rel. June 14, 1995 (Report and Order).

² MCI recognizes that the Commission's rules, specifically, Section 1.45(d), 47 C.F.R. § 1.45(d), do not contemplate filings made by one party in support of another's request for stay. However, MCI believes that certain economies will result to all interests, including the Commission's, if it files in support of AT&T, rather than filing its own separate request. In any event, nothing

The law pertaining to stay grants is well settled,³ and the facts and background of this proceeding demonstrate clearly that each element of the traditional four-part test for granting a stay is easily satisfied.

First, there is a substantial likelihood that those challenging the Commission's Report and Order will prevail on the merits. As more fully explained in MCI's reconsideration request, the inbound verification requirement is unsupported on the record and is otherwise insupportable. Stated most simply, there is no existing or even potential record to support the Commission's action and, therefore, said action could not withstand judicial review, should that become necessary.

Second, in the absence of a stay, MCI would need to incur significant costs, both capital and expense, to modify its operational systems to accommodate the planned requirement. These costs are presented in the affidavit of Wayne Huyard, which is being filed in support of MCI's reconsideration request. A copy of said affidavit is appended hereto and incorporated herein. As Mr. Huyard notes, the cost of compliance by MCI is estimated to be \$10 million.

herein should be construed as a concession by MCI that the relief requested by AT&T is not equally important to MCI.

³ See Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921,925 (D.C. Cir. 1958); Washington Metropolitan Transit Commission v. Holiday Tours, Inc., 559 F.2d 841,843 (D.C. Cir 1977).

Third, issuance of stay is not likely to cause injury to other parties for the very simple reason that the rule adopted by the Commission is altogether unnecessary to protect any interest. That is to say, as indicated above, there is lacking any record evidence that the class sought to be protected -- those calling interexchange carriers in response to marketing solicitations -- need protection.⁴ Given the absence of any significant number of consumers who need protection, and the fact that interexchange carriers would incur substantial costs in implementing measures to protect them, it is clear that, on balancing all relevant factors, a stay should be granted.

Finally, it is evident that a grant of stay herein will not in any way injure or otherwise compromise the public interest. Because there is no demonstrated or demonstrable need to protect consumers who initiate calls to purchase service, there simply is no basis to conclude that the public interest will be adversely affected by any delay in implementing the planned rule. Indeed, requiring carriers to expend monies to implement a rule for which there is no need would clearly disserve the public interest, either by forcing the carriers to pass those additional costs onto

⁴ As shown in the affidavit of Ms. Ivy Whitlatch, the original of which was appended to MCI's reconsideration request and a copy of which is appended hereto, the vast majority of those calling into MCI did so to purchase service, as distinct from seeking information about MCI or its products.

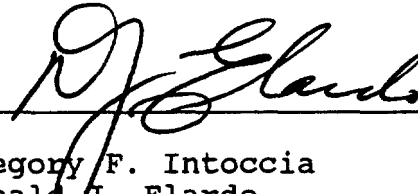
consumers -- if competitive factors permitted -- or forcing them to absorb those costs.

For the reasons contained herein, in MCI's reconsideration request, and AT&T's related filings in this proceeding, the Commission should stay implementation of the inbound calling verification requirement, pending reconsideration of the Report and Order.

Respectfully Submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: _____


Gregory F. Intoccia
Donald J. Elardo
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Its Attorneys

Dated: August 11, 1995